

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

PUERTO RICO AQUEDUCT AND
SEWER AUTHORITY and THE
COMMONWEALTH OF PUERTO RICO,

Defendants.

Civil Action No. 96-2489 (RLA)

FEBRUARY 28, 2005 STATUS REPORT

Pursuant to this Court's Order of February 10, 2005¹, the United States of America, on behalf of the Environmental Protection Agency ("EPA"), files this Status Report to update the Court regarding issues related to the 1998 Revised Consent Decree. In this Status Report, the United States briefly responds to the "Responsive Motion" filed by the Puerto Rico Aqueduct and Sewer Authority ("PRASA") on February 3, 2005.

The Court will recall that under the Revised Consent Decree, certain stipulated penalties relating to PRASA's violations of the Revised Consent Decree have been placed in an escrow account. *See* Revised Consent Decree, ¶¶ 3, 24(b). In its most recent Status Report, filed on December 1, 2004, the United States stated that it was "now incumbent upon PRASA to seek the 'approval of the Environmental Protection Agency' . . . for the return of some or all of the escrowed stipulated penalties." Status Report at 4. By means of PRASA's Responsive Motion

¹ Due to excusable neglect from the United States Attorney's Office for the District of Puerto Rico, the instant document was not timely filed. The United States apologizes to this Court and the other parties for this inadvertence, and prays this Honorable Court to accept the filing of this motion.

-2-

as well as a letter dated January 31, 2005 to EPA, PRASA has now formally requested that the Agency approve the return of the escrowed stipulated penalties.

The United States is currently reviewing the relevant materials relating to the return of the escrowed funds and determining whether it will approve the release of such funds. In addition, PRASA has informed EPA that it has commenced to gather information necessary to demonstrate that PRASA has met the termination requirements set forth at Paragraph 47 of the Revised Consent Decree.

Respectfully submitted,

THOMAS L. SANSONETTI
Assistant Attorney General

PETER K. KAUTSKY
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611, Ben Franklin Station
Washington, D.C. 20044-7611
(202) 514-3907

H.S. GARCIA
United States Attorney

LISA E. BHATIA GAUTIER [206014]
Assistant United States Attorney
District of Puerto Rico
Federal Office Building
150 Carlos E. Chardon Avenue
Hato Rey, Puerto Rico 00918

-4-

OF COUNSEL

Kim Kramer
Office of Regional Counsel
U.S. Environmental Protection Agency
Region II
290 Broadway
New York, New York 10007-1866

DATED: February 28, 2005

-5-

CERTIFICATE OF SERVICE

I hereby certify that, this 28th day of February, 2005, I caused a copy of the
February 28, 2005 Status Report to be sent to counsel at the following addresses:

Jorge Marrero-Narvaez, Esq.
Puerto Rico Aqueduct and Sewer Authority
Legal Division, 10th Floor
604 Barbosa Avenue
Hato Rey, Puerto Rico 00917

Director Federal Litigation Division
Commonwealth of Puerto Rico
Department of Justice
P.O. Box 902192
San Juan, Puerto Rico 00902-0192
